

# Coordinating Public Assistance Grants with Environmental Regulations

April 2010

# Public Assistance Grants

Provide supplemental financial assistance to eligible applicants to recover from damages incurred from:

- Debris removal
- Emergency protective measures
- Repair and/or replace damaged public infrastructure

Due to a Presidentially declared Major Disaster or  
Emergency

# Public Assistance and Environmental Laws and Regulations

- Federal grants require funding agencies to review projects under several Federal laws, regulations, and Executive Orders
- All Public Assistance projects must meet Federal, State, and Local laws, regulations, Executive Orders
- Obtain permits prior to commencing work
- Document contacts, emails, exemptions, permit requirements

# Governor's Office of Regulatory Assistance

- Created to assist individuals and governmental entities in obtaining several local, State and Federal environmental permits
- One permit application, copied as needed with original signatures
  - WDFW Hydraulic Project Application
  - USACE Section 404 Permit
  - WDOE Shoreline Master Act Permit
- Handbook, permit application, project questionnaire available at:  
<http://www.ora.wa.gov/resources/permitting.asp>

# Environmental and Historic Preservation

**FEMA funded actions must be in compliance with  
Federal, State, and local regulations**

- Federal
  - National Environmental Policy Act (NEPA)
  - Endangered Species Act (ESA)
  - Bald and Golden Eagle Protection Act
  - Clean Water Act
    - National Pollutant Discharge Elimination System (NPDES)
    - Section 404: Federal Certification

# Federal Regulations (continued)

- Executive Order 11988 Floodplain Management
- Executive Order 11990 Wetland Protection
- Coastal Zone Management Act (CZMA)
- National Historic Preservation Act (NHPA)
- Clean Air Act (CAA)
- Resource Conservation and Recovery Act (RCRA)

# State and Local Regulations

- State
  - State Environmental Policy Act (SEPA)
  - Shoreline Management Act (SMA)
  - Executive Orders 89-10 and 90-04, Protection of Wetlands
- Local
  - Ordinances Implementing Environmental, Shoreline, Floodplain, Critical Areas, Air

# FEMA Environmental

- Ensures FEMA funded actions are in compliance
- Integrates Environmental and Historic Preservation considerations into Disaster Recovery actions
- Disaster situations **do not** exclude FEMA from compliance
- FEMA must coordinate with other agencies to resolve compliance issues
- Environmental compliance must be implemented in projects from beginning

# National Environmental Policy Act



North Bend

# National Environmental Policy Act

- Enacted in 1969
  - Created the President's Council on Environmental Quality (CEQ)
    - Wrote NEPA Regulations: 40 CFR 1500
    - Requires FEMA to Write its own Regulations
    - 44 CFR 10 Environmental Considerations
- National Policy for a Better Human Environment
  - Requires Decision Makers to be Informed Before Making Decisions
  - Mandates Public Disclosure
  - Process Must be Completed **Before** Work is Started

# FEMA's NEPA Responsibility

Under NEPA, FEMA must

- Determine the level of NEPA review required
- Collect information
- Evaluate the environmental effects of the proposed action and alternatives when required
- Make that information available to the public, when required

# Applicant's NEPA Responsibility

Under NEPA, an applicant must

- Ensure that a clear, complete project description is prepared for their project
- Supply information required by FEMA
- Notify grantee/FEMA of changes in scope of activity
- Obtain Federal, State and Local permits
- Wait for approval to start work

# NEPA Decisions

When an action or project is reviewed for NEPA compliance there are four possible outcomes:

- Statutory Exclusion (STATEX)
- Categorical Exclusion (CATEX)
- Environmental Assessment (EA) / Finding of No Significant Impact (FONSI)
- Environmental Impact Statement (EIS) / Record of Decision (ROD)

# Statutory Exclusions

- FEMA is only Federal agency with a STATEX
- Statutory Exclusions:
  - Emergency Protective Measures
  - Debris Removal
  - Repair or Restoration Projects
    - Restore to substantially the pre-disaster footprint, function, and size

# Categorical Exclusions

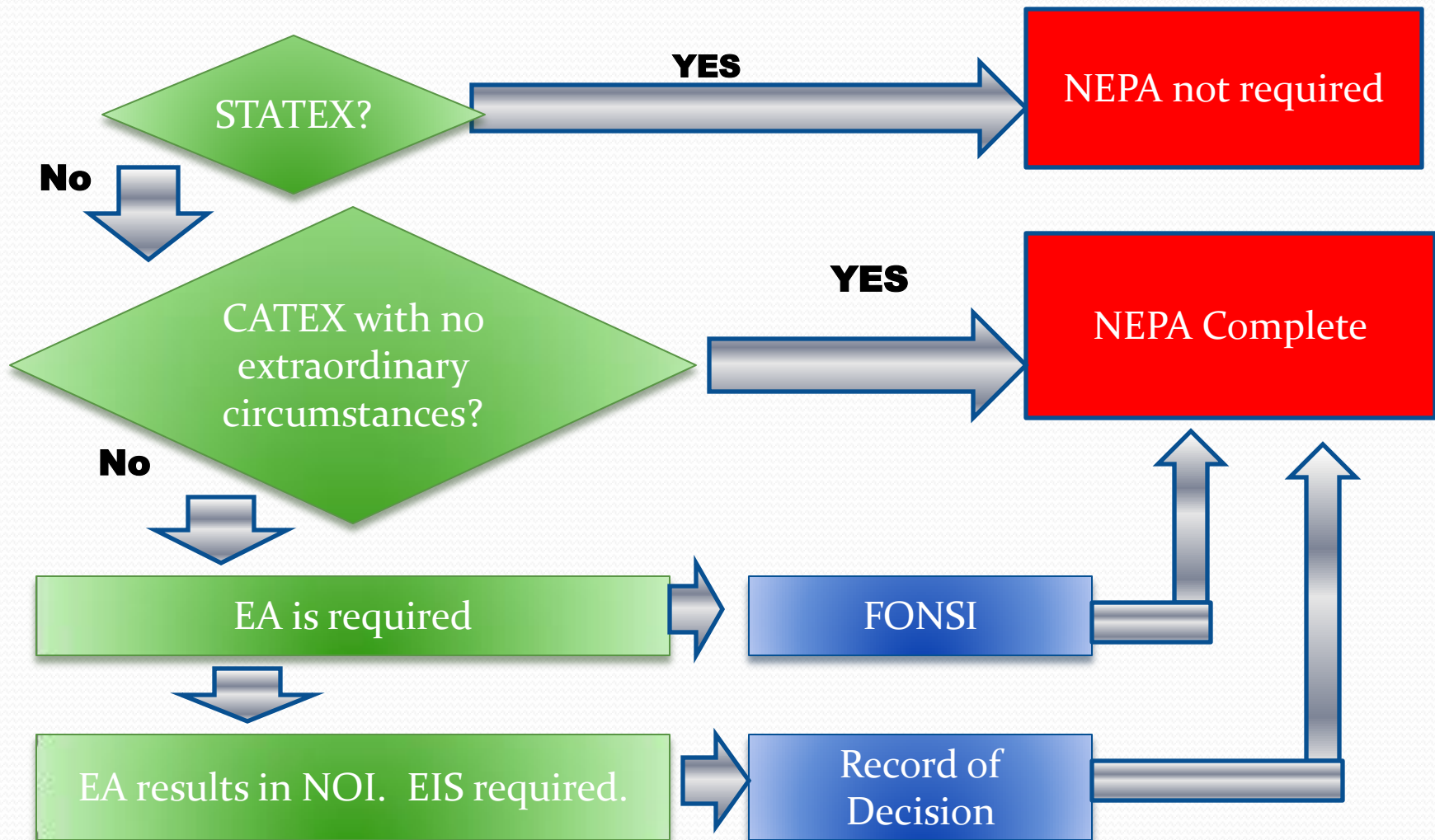
- Each Federal Agency Develops Own List of Typical Actions with no Significant Impact
- All other Laws and EOs must be Complied with
- Require More Documentation
  - Extraordinary Circumstances
  - Compliance with other Laws and EOs
  - Consultation with Resource Agencies

# When is an Environmental Assessment Needed?

If an Action is **NOT**  
a **CATEX** or **STATEX**,

**Environmental  
Assessment (EA)**  
**is Required**

# Environmental Review Process



# Environmental Assessments

- Concise public document
  - Discloses results of potential impacts
  - Should not be exhaustive in any one area
- Functions
  - Evidence and analyses on impacts of alternatives
  - Used to determine whether EIS is required
  - Demonstration of FEMA's NEPA compliance when no EIS is required
  - Facilitates EIS when required
- Preparation
  - Regional Program staff
  - Regional Environmental Officer gives final approval
- Results in FONSI or NOI

# Environmental Impact Statement

- Detailed full-disclosure document
  - Rigorous evidence and analysis of impacts of all reasonable alternatives
  - Formal public involvement is required
  - May require primary data development
- Functions
  - Examines an action identified as having significant environmental impact or controversy
  - Fully document the impact
  - Identifies alternatives
  - Implement project if benefits outweigh adverse effects
  - Conclude the NEPA review process with a ROD